1948

File No. O/PCEO/48

Legal Deptt
G **BRANCH**

Subject:— Opinions under the Paper ~~Econ~~ Control (Economy) Order 1944

P-10
E

File No. O/PCEO/48

Gen. 194 e.

GA-6/48

C O N T E N T S.

Legal Department File No. O./PCE 8/48

Serial No.	R.I./O.No.	Subject	Pages.
		Opinions under the Paper Control(Economy)Order 1944.	
1	855 26-1-48	Clause 23 Whether prosecution for breach of clause 23 should be launched against Mr.Yewankar or against him and the three publishers of the last, 2nd and 3rd editions of the booklet 'Nana Patil Yanched Veer Gayan'	1-2
2	377 12-1-1948	Clause 23 Whether a successful prosecution can be launched against M/S Hombali Bros. for breach of cl. 23 for publishing two books in the year 1946 and two books in 1947.	3-4
3	1183 4-2-1948	Cl. 12(2)(a) Whether the book entitled "Shakti Bharat Shangar Book" is a trade catalogue covered by the exception contained in cl. 12(2)(a).	5-6
4	1382 9-2-1948	Clause 10(2) Whether a successfule prosecution can be lauched against Mr. Shantilal R.Trivedi, the proprietor of Mahalaxmi Printing, Kapadganj for printing 500 copies of a pamphlet (Copies not made).	7-10
5	1577 13-2-48	Clause 17(a) Whether a prosecution can be lauched against Mr. Roy H.Rutterford for starting a new printing press without previous permission of the Paper Controller. (pp. 11-12 not copied).	11-14
6	1578 13-2-48	Section 17(a) Whether a successful case can be made out against Mr. Ambalal Nanalal Shah for operating 'Arvind Printery' in anticipation of getting permission from the Paper Controller	15-1
7	1513 11-2-48	Clause 23 Press and Registration of Books Act, 1867; sec. 3,12 and 16 Whether prosecutions can be launched against Mr, Ramalal Lallubhai for breach of cl. 23 and the keeper of Virvijay Printing Press, Ahmedabad for abement of the offence committed by Mr. Ramalal Lallubhai for publishing the book 'Matangi'	17-18
8	2710 18-3-48	Clause 23 Whether any action is feasible against Mr. Ghelabhai Desai, Secretary,Peoples Theatre Ahmedabad and the Bipin	

1	2	3	4
		Printery Bhadra, Ahmdabad for printery and publishing the book 'Shoe Maker's Wife'.	19-20
9	1740 20-2-48	Clause 23 Whether any action is feasible against Mr. Rathod and the keepers of Wardhman Arya Printing Press for publishing and Printing the booklets 'Mahatma Gandhijincha Palana and two other books. (pp. 21-24 not copied)	21-26
10	3655 15-4-48	Clause 17(a) Whether a prosecution can be launched against Mr. M.P.Patel for breach of the provisions of clause 17(a)	27-28
11	4546 11-5-1948	Clause 14 Whether a prosecution can be launched against the keeper of Sarda Litho Works. Poona for breach of clause 14	29-30

SMR 14-7-56
5 Copies.

Office of the R.L.A.

The question for consideration is whether prosecution for breach of clause 23 of the Paper Control(Economy)Order, 1945 should be launched against Mr. Yewankar or against him and the three publishers Messrs Anna Khaple, K.T.Khaple and B.P.Umate in respect of the publishing of the 1st, 2nd and 3rd editions of the booklet 'Nana Patil Yanche Veer Gayan'.

Although Mr. Yewankar takes the whole responsibility upon himself of publishing the three booklets, Anna Khaple, K.T.Khaple and Umate whose names are printed on the booklets as publishers are prima facie the publishers in view of the provisions of section 3 of the Press and Registration of Books Act, 1867. The onus is therefore onthem to prove that they are not the real publishers. All the three publishers along with Mr. Yewankar should therefore be prosecuted. If Yewankar alone is prosecuted, he may escape by attempting to pass on the guilt to them.

Id./P.M.L. 21/1
Remembrancer of Legal Affairs.

U. R. to C.S.D. No. 855 dated 26-1-48

SMR 14-7-56
4 Copies.

Office of the R.L.A.

The question for consideration is whether the book entitled "Bhakti Bharat Shangar Book" is a trade catalogue covered by the exception contained in cl. 12(2)(a)of the Paper Control(Economy)Order, 1945.

Cl.12(2)(a)provides that nothing in sub-clause 12(1)shall apply to the distribution gratituously or otherwise of an advertising circular such as a trade catalogue despatched to wholesalers or retailers of the goods advertised therein. By a catalogue is intended a mere list of the goods advertised. In the introduction, the writer or the composer has(in the latter part of the introduction)advertised that ornaments according to the designs shown in the catalogue are made by him among other things. But the opening part of the introduction makes it quite clear that it is a reference book of designs prepared for the use of other goldsmits. Besides it is not a catalogue despatched to wholesalers or retailers of goods advertised therein. The book does not therefor fall under cl. 12(2a)of the Paper Control(Economy) Order, 1945. The view taken by the Dy. D.C.S.(G)is correct.

Id./P.M.L. 3/2

Remembrancer of Legal Affairs.

O.M. to C.S.D.No. 1183 date 4-2-1948

SWR 14-7-56
4 Copies.

Office of the R.L.A.

There seems to be a bonafide mistake on the part of Mr. Rutterford, the Managing Director of M/S Haruco Ltd. in starting a new printing press without the previous permission of the Provincial Paper Controller, Bombay, as required by clause 17 (a) of the Paper Control (Economy) Order, 1945. It appears that Mr. Rutterford did not do any substancial business of printing. The offence committed by him is, therefore, merely technical.

Id./P.M.L. 13/2

Remembrancer of Legal Affairs.

U.R. to C.S.D.No. 1577 dated 13-2-48

SMR 14-7-56
4 Copies.

Office of the R.L.A.

Section 3 of the Press & Registration of Books Act, 1867 provides that every book printed within India shall have printed legibly on it the name of the printer and the place of printing and if the book is published, the name of the publisher and the place of publication. In this case the place of publication is not expressly stated but the name of Ramanlal Lallubhai the Pramukh of the Shri Modheshwar or Matanji Devathan Sanstha, Modhera is printed as the publisher. It is not clear whether the book was published in Ahmedabad or Modhera. If it is published in Ahmedabad prosecution of Ramanlal would be possible for breach of clause 23 of the Paper Control(Economy)Order, 1945 but if it is published at Modhera which is in Baroda State, no action would be possible.

If publication at Ahmedabad can be established, then alone the press would be liable for abetment. The only kind of abetment that can be charged against the press is abetment by aid. The aid however, must be intentional. The intention should be to aid an offence or to facilitate its commission. If the person who lends his support does not know or has no reason to believe that the act which he was aiding or supporting was in itself a criminal act, it cannot be said that he gave intentional aid. It is difficult to infer such intentional aid from the mere facts of printing and supplying paper. On the other hand, from its omission it may be possible to argue that it was not acting under the belief as it maintains, that the necessary permission for publishing the book was obtained by Mr. Ramanlal; which would suggest that the press was aiding him. Better evidence than what is available at this stage would be necessary if abetment is to be brought home to the press.

Action can however, be independently taken against the press under section 12 and 16 of the Press and Registration of Books Act, 1867 for its failure to print place of publication and for neglecting to deliver copy of the book to Government.

Id./P.M.L. 11/2

Remembrancer of Legal Affairs.

U.R. to C.S.D.No. 1513 dated 11-2-48

SMR 14-7-56
4 Copies.

Office of the R.L.A.

A declaration made before the District Magistrate under Section 4 of the Press and Registration of Books Act, 1867 does not dispense with the authority required under Clauses 17(a) of the Paper Control(Economy)Order, 1945, for operating a new Press. Consequently a prosecution for breach of Clause 17(a) of the Paper Control(Economy)Order, 1945 would be against Mr. Patel.

If the Prince of Wales Printing Press at Broach is still being run, though without the tradle machine sold to Mr. Patel, it would be difficult to maintain that the name of the Press is changed or its location. It would be safer to confine the prosecution to Clause 17(a) only.

Id./P.M.L. 14/4
Remembrancer of Legal Affairs.

U.O.R. to C.S.D.No. 3655 dated 15-4-48

SMR 14-7-56
4 Copies.

Office of the R.L.A.

It seems the Sarda Litho Press at Poona was entitled to consume a quota of 6720 Lbs. of paper other than newsprint per quarter under clause 14 of the Paper Control(Economy) Order, 1945. In the quarter from October to December 1947 the said works consumed 808½ lbs. of paper in excess of the quota. The contention of the works is that this excess consumption can be adjusted in the consumption figures of the next quarter i.e. the first quarter of 1948. The Paper Controller however does not agree with this interpretation of clause 14 and seems to hold that such excess consumption is adjustible during the same calendar year and cannot be carried over to the first quarter of the next calendar year. The Remembrancer of Legal Affairs is requested to advise on this point.

Clause 14 of the Paper Control(Economy)Order, 1945 lays down the mode of determining the quota of paper other than newsprint which the keeper of a printing press can consume during any quarter. This clause does not refer to the annual quota at all. The first proviso to clause 14 provides that the quantity consumed in any quarter may exceed that permitted under clause 14 subject to the condition that the quantity permitted to be consumed in the next quarter shall be inclusive of this excess. There is no mention of any quarter of any particular calender year in this proviso and it appears that the excess quota of the last quarter of any calender year can be adjusted with the quota of the next year. The intention of the Legislature regarding the above interpretation seems to be clear from the fact that in the 2nd proviso to the said clause 14 a specific mention of the 'Calendar Year' is made. From this it is clear that the excess consumption of a particular quarter can be adjusted with the consumption of the next quarter whether it falls in the same calendar year or not but if in any quarter less quota is consumed then the

balance is required to be consumed in any subseq ent quarter during the same calendar year. The view taken by the Paper Controller therefore does not seem to be correct.

Ad./P.E.L. 10/5

Remembrancer of Legal Affairs.

U.O.R. to C.S.D.No. 4546 dated 11th May 1948.

SMR 14-7-56
4 Copies.